

Tab 1 SB 100 by Steube; (Identical to H 6011) Tobacco Settlement Agreements

Tab 2 SB 106 by Flores; (Similar to H 0081) Vendors Licensed Under the Beverage Law

156064	A	S	RS	RI, Gibson	Delete L.44:	01/27 02:34 PM
600198	SA	S	WD	RI, Hutson	Delete L.44:	01/27 02:34 PM
638800	SA	S	RCS	RI, Hutson	Delete L.44:	01/27 02:34 PM

Tab 3 SB 114 by Brandes; (Identical to H 0211) Cosmetic Product Registration

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Hukill, Vice Chair

MEETING DATE: Thursday, January 26, 2017
TIME: 10:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Perry, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 100 Steube (Identical H 6011)	Tobacco Settlement Agreements; Repealing provisions relating to security requirements for tobacco settlement agreement signatories, successors, parents, and affiliates, etc. RI 01/26/2017 Temporarily Postponed JU RC	Temporarily Postponed
2	SB 106 Flores (Similar H 81)	Vendors Licensed Under the Beverage Law; Revising applicability to specify circumstances under which persons under the age of 18 years who are employed in specified businesses are excluded from certain employment prohibitions; providing that failure to comply with a restriction on monthly revenue from the sale of alcoholic beverages is unlawful if a minor is employed during a month that the restriction is exceeded, etc. RI 01/26/2017 Fav/CS RC	Fav/CS Yeas 9 Nays 1
3	SB 114 Brandes (Identical H 211)	Cosmetic Product Registration; Deleting the requirement that a person who manufactures, packages, repackages, labels, or relabels a cosmetic in this state register such cosmetic biennially with the Department of Business and Professional Regulation, etc. RI 01/26/2017 Favorable AGG AP	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 100

INTRODUCER: Senator Steube

SUBJECT: Tobacco Settlement Agreements

DATE: January 24, 2017

REVISED: 01/25/17

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	<u></u>	<u></u>	<u>JU</u>	<u></u>
3.	<u></u>	<u></u>	<u>RC</u>	<u></u>

I. Summary:

SB 100 repeals s. 569.23, F.S., which provides limitations upon the amount of security (i.e., appeal bond) required in appeals of civil actions against a signatory, successor, parent, or affiliate of a signatory to Florida's 1997 landmark \$368.5 billion tobacco settlement agreement in *State of Florida v. American Tobacco Co.*, No. 95-1466AH (Fla. 15th Cir. Ct.).

Under s. 569.23(2), F.S., the total value of security required to stay the execution of a judgment against the settling tobacco companies may not exceed \$100 million for all appellant tobacco companies collectively, regardless of the total amount of the judgment.

Section 569.23(3), F.S., applies to appeals by the settling tobacco companies in lawsuits brought in Florida by or on behalf of plaintiffs who were part of a decertified class action lawsuit against those companies. That subsection requires a trial court to automatically stay the execution of any judgment involving settling tobacco companies during the pendency of all appeals, once security for the judgment being appealed is provided. The amount of security required in those cases is equal to the lesser of the judgment amount or an amount calculated based on the total number of such judgments, and is specified in s. 569.23(3)(a)2., F.S.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

Florida's Tobacco Settlements

In February 1995, the State of Florida sued a number of tobacco manufacturers, and others, asserting various claims for monetary and injunctive relief. The defendants included: American Tobacco Company, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corp., Philip Morris Inc., Liggett Group, Inc., Brooke Group, Ltd., Lorillard Corporation, British

American Tobacco Co., Ltd., and Dosal Tobacco Corp, Inc. On March 3, 1996, Florida, as one of five settling states,¹ entered into a settlement agreement with Liggett Group, Inc., Brooke Group, Ltd., and Liggett & Myers, Inc. (collectively herein referred to as Liggett). In August, 1997, the “Big Four” tobacco companies (Phillip Morris, Inc., R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corp., and Lorillard Tobacco Company) entered into the landmark \$368.5 billion tobacco settlement agreement.

At the time of the settlement, the settling manufacturers held approximately 97.35 percent of the tobacco market share in the U.S.² The remaining market share was held by various, smaller producers who were not named in the state’s suit as defendants. Dosal Tobacco Corp. Inc., was subsequently dismissed from the lawsuit. The annual tobacco settlement payments are based on several factors, including the total volume of U.S. cigarette sales, and national market share.

Subsequent to Florida’s settlement, the “Big Four” tobacco companies settled with 46 states, the District of Columbia, and five U.S. territories in November 1998, by entering into the Master Settlement Agreement (MSA).³ The “Big Four” tobacco companies are known as the Original Participating Manufacturers or OPMs. Forty-five additional tobacco manufacturers, including Liggett, have since joined the MSA, but have not reached a comparable settlement with Florida.⁴ These manufacturers are known as Subsequent Participating Manufacturers or SPMs. The manufacturers that have not joined the MSA or otherwise settled with a state are known as Non-Participating Manufacturers or NPMs. Florida, Minnesota, Mississippi, and Texas are not parties to the Master Settlement Agreement.

Engle Progeny Litigation

In 1994, a Florida resident, Howard Engle, filed a national class-action lawsuit against R.J. Reynolds Tobacco Co., and the other “Big Four” tobacco companies. The plaintiff smokers alleged that the tobacco companies had misled consumers about the dangers of their cigarettes. The class was later limited to Florida residents.⁵

In May 2000, a Florida jury found the companies liable for misleading consumers and awarded the plaintiffs \$145 billion in damages, one of the largest jury awards ever in the U.S. The tobacco companies appealed and argued that the class of plaintiffs was too diverse and the punitive damage award was excessive. In 2003, the Florida Third District Court of Appeal agreed and reversed the judgment of punitive damages and decertified the class.⁶ On July 6, 2006, the Florida Supreme Court affirmed the reversal of the punitive damages and the

¹ The five states that entered into the March 3, 1996, settlement agreement are West Virginia, Florida, Mississippi, Massachusetts, and Louisiana.

² “Tobacco Settlement and Declining State Revenues,” *Trends Alert*, The Council of State Governments, March 2002, page 5. A copy is available at: <http://www.csg.org/knowledgecenter/docs/TA0203Tobacco.pdf> (last visited January 10, 2017).

³ Master Settlement Agreement (Nov. 1998), is available at the Internet website for the National Association of Attorneys General at: http://www.naag.org/naag/about_naag/naag-center-for-tobacco-and-public-health/master-settlement-agreement/master-settlement-agreement-msa.php (last visited January 10, 2017).

⁴ A complete listing as of December 21, 2016 of the SPMs under the MSA can be found at: http://www.naag.org/assets/redesign/files/msa-tobacco/2016-12-21%20PM%20List_2.pdf (last visited January 10, 2017).

⁵ *R.J. Reynolds Tobacco Co. v. Engle*, 672 So. 2d 39 (Fla. Dist. Ct. App. 1996).

⁶ *Liggett Group, Inc. v. Engle*, 853 So. 2d 434 (Fla. 3rd Dist. Ct. App. 2003).

decertification of the class, but it allowed former class members to file individual lawsuits. The Florida Supreme Court also permitted the individual plaintiffs, known collectively as the “*Engle* progeny,” to rely on the factual findings in the original lawsuit under the legal principal of *res judicata*.⁷ As a result, the individual plaintiffs would not have to prove that the tobacco companies misled consumers, but would have to prove that they relied on those misleading representations and were harmed.⁸ More than 8,000 lawsuits were subsequently filed in the Florida state courts and in U.S. District Courts in the state.⁹

On March 14, 2013, the Florida Supreme Court held that relying on the findings of fact in the original *Engle* case under the *res judicata* doctrine in *Engle* progeny cases in Florida state courts did not violate the tobacco companies' due process rights.¹⁰

Federal Settlements

In October 2013, Liggett and its parent company, Vector Group, Ltd., agreed to pay \$110 million to settle 4,900 of the then 5,300 lawsuits pending in Florida federal courts.¹¹ In February 2015, R.J. Reynolds Tobacco Co. and Philip Morris USA each agreed to pay \$42.5 million to resolve those cases, and Lorillard Inc., agreed to pay \$15 million. This agreement affected 415 of the pending cases in the Middle District of Florida.¹²

These settlements do not affect the pending lawsuits filed in Florida's state courts.

Pending State Court Cases

There are approximately 3,000 cases pending in state courts.¹³ According to representatives for “*Engle* progeny” plaintiffs’ attorneys, 225 cases, not including mistrials, have resulted in a verdict, and 144 of those cases have resulted in a judgment for the plaintiff. More than 144 appeals have resulted because some of the cases have multiple appeals. The defendant tobacco companies have paid 56 of the plaintiffs’ judgments, and have appealed 26 judgments to the Florida Supreme Court and 15 judgments to the United States Supreme Court. Some of the appealed verdicts and jury awards have been reversed, reduced, or remanded for further proceedings.¹⁴

⁷ “*Res judicata*” refers to the legal concept that once a point in a controversy has been legally determined by a court judgement, it cannot be contested again by the parties in the same action or in or subsequent proceedings. See BLACK’S LAW DICTIONARY, FIFTH EDITION (1979).

⁸ *Engle v. Liggett Group, Inc.*, 945 So. 2d 1246 (Fla. 2006), cert. denied, 552 U.S. 941 552 U.S. 941, 128 S. Ct. 96, 169 L. Ed. 2d 244 (2007).

⁹ For a review of the “*Engle* progeny” litigation, see *What is the “Engle Progeny” Litigation?*, Tobacco Control Legal Consortium, September 2015, available at: <http://publichealthlawcenter.org/sites/default/files/resources/tclc-fs-engle-progeny-2015.pdf> (last visited January 11, 2017).

¹⁰ *Philip Morris USA, Inc., v. Douglas*, 110 So3d 419 (Fla. 2013).

¹¹ Dye, Jessica, *Liggett Group to Pay \$110 million in Tobacco Settlement*, Reuters.com, October 23, 2013, available at: http://www.journalnow.com/business/business_news/local/reynolds-may-face-lower-damages-in-engle-verdict/article_62e3647d-9457-5b0b-a1d6-38a7d6333e69.html (last visited January 11, 2017).

¹² *More Engel Cases Dropped in Florida, Including at Least 11 Involving Reynolds*, Winston-Salem Journal, June 14, 2015, available at: http://www.journalnow.com/business/business_news/local/more-engel-cases-dropped-in-florida-including-at-least-involving/article_3539064d-f379-5c66-9e06-60c262c6b159.html (last visited January 11, 2017).

¹³ See note 9.

¹⁴ *Id.*, citing Kolker, Carlyn, *The Tobacco Litigation that Wouldn't Die*, THE AMER. LAW, May 25, 2015.

Stays During Appeal and Bond Requirements for Settling Manufacturers

Florida Rules of Appellate Procedure set forth the requirements for obtaining a stay of execution of a monetary judgment pending review. Rule 9.310 of the Florida Rules of Appellate Procedure provides that, if the judgment is solely for the payment of money, a party may obtain an automatic stay of execution pending review, without the necessity of a motion or order, by posting a good and sufficient bond (a supersedeas bond) equal to the principal amount of the judgment plus twice the statutory rate of interest on judgments on the total amount on which the party has an obligation to pay interest. Multiple parties having common liability may file a single bond. Under the rule, the lower tribunal is given specific continuing jurisdiction to determine the actual sufficiency of any such bond.

In 2000, prior to the trial court in *Engle* entering the \$145 billion judgment, the Legislature enacted s. 768.733, F.S., relating to bonds in class action lawsuits.¹⁵ Section 768.733, F.S., provides:

(1) In any civil action that is brought as a certified class action, the trial court, upon the posting of a bond or equivalent surety as provided in this section, shall stay the execution of any judgment, or portion thereof, entered on account of punitive damages pending completion of any appellate review of the judgment.

(2) The required bond or equivalent surety acceptable to the court for imposition of the stay shall be the lower of:

(a) The amount of the punitive-damages judgment, plus twice the statutory rate of interest; or

(b) Ten percent of the net worth of the defendant as determined by applying generally accepted accounting principles to the defendant's financial status as of December 31 of the year prior to the judgment for punitive damages;

provided that in no case shall the amount of the required bond or equivalent surety exceed \$100 million, regardless of the amount of punitive damages.

As a result of the 2000 legislation, the five tobacco companies' bond to appeal the \$145 billion class action judgment in *Engle* was limited to \$100 million.

In 2003, the Legislature enacted s. 569.23, F.S., to provide:

See also, Craver, Richard, *Reynolds May Face Lower Damages in Engle Verdict*, Winston-Salem Journal, January 6, 2017, available at: http://www.journalnow.com/business/business_news/local/reynolds-may-face-lower-damages-in-engle-verdict/article_62e3647d-9457-5b0b-a1d6-38a7d6333e69.html (last visited January 11, 2017), and Craver, Richard, *More Engel Cases Dropped in Florida, Including at Least 11 Involving Reynolds*, Winston-Salem Journal, June 14, 2015, available at: http://www.journalnow.com/business/business_news/local/more-engel-cases-dropped-in-florida-including-at-least-involving/article_3539064d-f379-5c66-9e06-60c262c6b159.html (last visited January 11, 2017).

¹⁵ Section 4, ch. 2000-128, Laws of Fla.

(1) In any civil action involving a signatory or successor or an affiliate of a signatory to the tobacco settlement agreement . . . , the appeal bond to be furnished during the pendency of all appeals or discretionary appellate reviews of any judgment in such litigation shall be set pursuant to applicable laws or court rules, except that the *total bond for all defendants may not exceed \$100 million, regardless of the total value of the judgment.*¹⁶

In 2009, after the decertification of the *Engle* class, the Legislature amended s. 569.23(1), F.S., to define “tobacco settlement agreement” as “any settlement agreement, as amended, entered into by the state and one or more cigarette manufacturers in settlement of *State of Florida v. American Tobacco Co.*, No. 95-1466AH (Fla. 15th Cir. Ct. 1996).”¹⁷

At the same time, section 569.23(2), F.S., was amended to provide that the security (i.e., appeal bond) required during the pendency of all appeals or discretionary appellate reviews, including appeals to the United States Supreme Court, of any judgment against the settling tobacco companies must be set pursuant to the applicable laws or court rules, except that the total value of security for *all appellants (i.e., defendants) collectively* may not exceed \$100 million, regardless of the total value of the judgment.¹⁸

In civil actions brought by or on behalf of the “*Engle* progeny” plaintiffs, s. 569.23(3), F.S., requires the trial courts to “automatically stay the execution of any judgment in any such actions during the pendency of all appeals or discretionary appellate reviews of such judgment in Florida courts, upon provision of [the] security” specified in that subsection.

Section 569.23(3)(a)2., F.S., also provides the procedure for determining the amount of the bond based on the number of judgments and the process for making claims against the bond. The amount of the security (or bond) required for *Engle* progeny cases is based on the following chart:¹⁹

TIER— NUMBER OF JUDGMENTS	AMOUNT OF SECURITY PER JUDGMENT	MAXIMUM TOTAL ALL SECURITY
1-40	\$5,000,000	\$200,000,000
41-80	\$2,500,000	\$200,000,000
81-100	\$2,000,000	\$200,000,000
101-150	\$1,333,333	\$199,999,950
151-200	\$1,000,000	\$200,000,000
201-300	\$666,667	\$200,000,100
301-500	\$400,000	\$200,000,000

¹⁶ Chapter 2003-133, Laws of Fla. (Emphasis added.)

¹⁷ Chapter 2009-188, Laws of Fla.

¹⁸ *Id.*, and Summary of Legislation Passed (2009 Regular Session), CS/SB 2198, pp. 173-4.

¹⁹ *Id.*; see s. 569.23(3)(a)2., F.S.

TIER— NUMBER OF JUDGMENTS	AMOUNT OF SECURITY PER JUDGMENT	MAXIMUM TOTAL ALL SECURITY
501-1,000	\$200,000	\$200,000,000
1,001-2,000	\$100,000	\$200,000,000
2,001-3,000	\$66,667	\$200,001,000

After notice and hearing, if a plaintiff proves by a *preponderance of the evidence*²⁰ that the defendant who posted the bond is purposefully dissipating assets outside the ordinary course of business to avoid payment of the judgment, then the court has the discretion to enter necessary orders to protect the plaintiff, including ordering an appeal bond to be posted in an amount up to the full amount of the judgment.²¹

Section 569.23, F.S., applies to all cases pending or filed on or after the July 1, 2003.²²

Section 569.23, F.S., does not apply to any past, present, or future action brought by the State of Florida against the settling manufacturers.²³

Section 569.23, F.S. (2009), included a provision in subsection (3)(f) for the expiration of subsection (3) on December 31, 2012.²⁴ The 2011 Legislature repealed the expiration provision that had been contained in subsection (3)(f). The legislation which repealed the expiration provision made the following legislative finding:

The Legislature finds that hundreds of millions of dollars appropriated annually in support of the state's Medicaid program and other critical health programs come directly from revenues resulting from the settlement in *State of Florida v. American Tobacco Co.*, No. 95-1466AH (Fla. 15th Cir. Ct.), that maintaining those revenues is critical to the health of this state's residents, that s. 569.23(3), Florida Statutes, protects the continued receipt of those revenues, that the sunset of s. 569.23(3), Florida Statutes, will undermine financial support for the state's Medicaid and other critical health programs, and that the sunset of that subsection should therefore be repealed.²⁵

III. Effect of Proposed Changes:

The bill repeals s. 569.23, F.S.

²⁰ With respect to the burden of proof in civil cases, this is defined as meaning the greater weight of the evidence, or evidence which as a whole, shows that the fact sought to be proved is more probable than not. *See* BLACK'S LAW DICTIONARY, SIXTH EDITION.

²¹ Section 569.23(4), F.S.

²² *See* s. 2, ch. 2003-133, Laws of Fla.

²³ Section 569.23(5), F.S.

²⁴ Section 569.23(3)(f), F.S. (2009)

²⁵ Section 16 (1), Ch. 2011-61, Laws of Fla.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The tobacco companies that were signatories to the tobacco settlement agreements, or their successor, parent, or affiliates would be required to furnish an appeal bond which may be equal to the amount of the judgment for all individual judgments, as provided under Rule 9.310 of the Florida Rules of Appellate Procedure. The amount of such judgements and the amount of any required appeal bond is indeterminate at this time.

C. Government Sector Impact:

The Office of the State Courts Administrator does not anticipate that the bill will have a fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 569.23 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Steube

23-00283-17

2017100__

1 A bill to be entitled
2 An act relating to tobacco settlement agreements;
3 repealing s. 569.23, F.S., relating to security
4 requirements for tobacco settlement agreement
5 signatories, successors, parents, and affiliates;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 569.23, Florida Statutes, is repealed.
11 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/17
Meeting Date

SB 100
Bill Number (if applicable)

Topic Appeal Bond ~~E~~ Legislation Repeal

Amendment Barcode (if applicable)

Name KEITH TEEL

Job Title PARTNER, COVINGTON & BURLING

Address 850 TENTH ST N.W.
Street
WASHINGTON D.C. 20001
City State Zip

Phone 202-662-5501

Email KTEEL@COV.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Altria Client Services and RAI Services Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2017
Meeting Date

100
Bill Number (if applicable)

Topic Tobacco Settlement Agreements

Amendment Barcode (if applicable)

Name Heather ^{Yo-mans} Yarmans

Job Title Sr. Gov Relations Director

Address 2619 Centennial Blvd, #101

Phone 251-211

Street

Tallahassee

FL

32308

City

State

Zip

Email heather.yarmans@cover.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American Cancer Society Cancer Action Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/17
Meeting Date

SB100
Bill Number (if applicable)

Topic Tobacco Bond

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 W Adams St
Tallahassee FL 32301
City State Zip

Phone 229-777-3

Email bbevis@af.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26-17

Meeting Date

SB100

Bill Number (if applicable)

Topic Tobacco Bond Repeal

Amendment Barcode (if applicable)

Name Jimmy Gustafson

Job Title Attorney

Address 1567 Cristobal Drive

Phone 850-251-4011

Street

Tallahassee FL 32303

City

State

Zip

Email jwg@searaylaw.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Citizens Against Cigarette Manufacturers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

1-26-17

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 100

Bill Number (if applicable)

Topic Bond Cap Repeal

Amendment Barcode (if applicable)

Name Bob O'Malley

Job Title RVP

Address 283 Cranes Roast Blvd. Suite 111

Phone 407-803-3969

Street

Altamonte Springs FL 32701

City

State

Zip

Email Bob_O'Malley@CSX.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing CSX Transportation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 106

INTRODUCER: Regulated Industries Committee and Senator Flores

SUBJECT: Vendors Licensed Under the Beverage Law

DATE: January 26, 2017 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	Fav/CS
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 106 amends s. 565.04, F.S., to prohibit the Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (DBPR) from issuing a package store license for the sale of beer, wine, and distilled spirits for any location or business located within 1,000 feet of a public or private elementary, middle school, or secondary school.

The bill permits package stores licensed on or before June 30, 2017, for a premises located within 1,000 feet of a school to maintain and renew the license for that location, if the place of business complies with the package store restrictions in current law in s. 565.04, F.S. Current law prohibits package stores from selling, offering and exposing for sale other merchandise in addition to distilled spirits, beer and wine. In addition, package stores may not have openings permitting direct access to any other building or room, except to a private office or storage room of the place of business place of business from which patrons are excluded. However, those package stores are allowed to sell bitters, grenadine, nonalcoholic mixer-type beverages (not including fruit juices produced outside Florida), fruit juices produced in this state, home bar, and party supplies and equipment (including but not limited glassware and party-type foods), miniatures of no alcoholic content and tobacco products.

The bill removes the restrictions in current law from package stores that are located more than 1,000 feet of a school.

The bill permits the employment of persons under the age of 18 by alcoholic beverages vendors that are a retail drug store, grocery store, department store, florist shop, specialty gift shop, or

automobile service station and that derive 30 percent or less of their monthly gross revenue from the sale of alcoholic beverages. Those vendors may employ a person under the age of 18 only if the minor is supervised by a person 18 years of age or older who verifies the age of the purchaser to be 21 years of age or older and who approves the sale of alcoholic beverages to the purchaser. The bill provides that it is unlawful to employ a minor during a month in which those vendors' gross revenue from the sale of alcoholic beverages exceeds 30 percent of total revenue.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

Alcoholic beverages are regulated by the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors. The division administers and enforces the Beverage Law.

Section 565.01, F.S., provides that “the words ‘liquor,’ ‘distilled spirits,’ ‘spirituous liquors,’ ‘spirituous beverages,’ or ‘distilled spirituous liquors’ mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

Quota Licenses

Section 561.20, F.S., limits, by county, the number of alcoholic beverage licenses that may be issued that permit the sale of liquor (distilled spirits), to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquor to one that does permit their sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation.

Section 565.02(1)(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine, and distilled spirits, regardless of alcoholic content. This includes licensees who are authorized to sell:

- Any alcoholic beverages, where the beverages are sold only in sealed containers for consumption off the premises;
- Any alcoholic beverages, where the sale is limited to consumption on the premises; and
- Any alcoholic beverages for consumption on the premises where off-premises sales are permitted.

Package Stores

Section 565.02(1)(a), F.S., permits the sale of alcoholic beverage (beer, wine, and distilled spirits) only in sealed containers for consumption off the premises. These type of licensees are known as “package stores.”

¹ The term “Beverage Law” is defined in s. 561.01(6), to mean chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

Section 565.04, F.S., provides sales restrictions for vendors licensed as a package store under s. 565.02(1)(a), F.S. Package stores may have no openings that permit direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded. Package stores must be devoted exclusively to alcoholic beverages; such stores are prohibited from selling, offering, or exposing for sale any merchandise other than the alcoholic beverages authorized under their alcoholic beverage license. However, package stores may sell bitters, grenadine, nonalcoholic mixer-type beverages (not to include fruit juices produced outside this state), fruit juices produced in this state, home bar, and party supplies and equipment (including but not limited to glassware and party-type foods), miniatures of no alcoholic content, and tobacco products.

Rule 61A-3.054(1), F.A.C., defines the party-type supplies to include:

- a) All dairy products;
- b) Ready to eat deli meats and cheeses, including those packaged by a manufacturer;
- c) Condiments;
- d) Sauces;
- e) Spices;
- f) Eggs;
- g) Chips, popcorn, and nuts;
- h) Crackers;
- i) Ingredients for salads, dips, and dressings;
- j) Cooked foods ready to eat;
- k) Bread;
- l) Candy;
- m) Fruit;
- n) Napkins, paper and plastic plates and cups, and eating and serving utensils;
- o) Wine and liquor opening, storage, and serving utensils and equipment;
- p) Publications relating to alcoholic beverage products and recipes;
- q) Items containing the logo, trade name, or trademark relating to alcoholic beverages;
- r) Gift wrapping accessories and greeting cards; and
- s) Ice.

Package stores may petition the division for permission to sell products other than those listed if they can clearly show that the item is to be used as a party-type supply.² Package stores may not sell services or lottery tickets.³

Rule 61A-3.054, F.A.C., was adopted in 1994, it has not been amended.

² Rule 61A-3.054(2), F.A.C.

³ Rule 61A-3.054(3), F.A.C.

Electronic Benefits Transfer Cards

Section 402.82, F.S., requires the Department of Children and Families to establish an electronic benefits transfer program for the dissemination of food assistance benefits and temporary cash assistance payments, including refugee cash assistance payments, asylum applicant payments, and child support disregard payments. Section 402.82(4)(a), F.S., prohibits the use of the electronic benefit card to purchase alcoholic beverages.

Employment of Minors

Section 562.13, F.S., prohibits any vendor licensed under the Beverage Law from employing any person under 18 years of age. Section 562.13, F.S., provides specific exceptions to permit persons under the age of 18 years to be employed at locations licensed to sell beer, or beer and wine, when such sales are made in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations for consumption off the premises.

III. Effect of Proposed Changes:

Package Store Restrictions

The bill amends s. 565.04, F.S., to prohibit the division from issuing a package store license for any location or business located within 1,000 feet of a public or private elementary, middle school, or secondary school.

The bill permits package stores that are licensed on or before June 30, 2017, for a premises located within 1,000 feet of a school to maintain and renew the license for that location if the place of business complies with the package store restrictions in current law in s. 565.04, F.S. The bill prohibits package stores located within 1,000 feet of a school from selling, offering and exposing for sale other merchandise in addition to distilled spirits, beer and wine. In addition, package stores located within 1,000 feet of a school may not have openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded. However, those package stores may sell bitters, grenadine, nonalcoholic mixer-type beverages (not including fruit juices produced outside Florida), fruit juices produced in this state, home bar, and party supplies and equipment (including but not limited glassware and party-type foods), miniatures of no alcoholic content and tobacco products.

The bill removes the restrictions in current law from package stores that are located more than 1,000 feet of a school.

Employment of Minors

The bill amends s. 562.13(2)(c), F.S., to permit the employment of persons under the age of 18 by vendors that are a retail drug store, grocery store, department store, florist shop, specialty gift shop, or automobile service station and that derive 30 percent or less of their monthly gross revenue from the sale of alcoholic beverages. Those vendors may employ a person under the age of 18 only if the minor is supervised by a person 18 years of age or older who verifies the age of any purchaser to be 21 years of age or older and who approves the sale of alcoholic beverages to

any purchaser. The bill provides that it is unlawful to employ a minor during a month in which those alcoholic beverage vendors' gross revenue from the sale of alcoholic beverages exceeds 30 percent of total revenue.

Effective Date

The bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DBPR anticipates that the bill would result in a reduction in the number of licenses and associated license fees, and that the state, cities, and counties could lose license fee revenue. The DBPR estimates an annual reduction in state revenue of \$258,720 if package store retailers that operate an adjacent location licensed to sell beer and wine opt to consolidate all alcoholic beverages sales under the authority of the package store license.

Current law requires that 24 percent of the license tax collected for the license issued in a county under ss. 561.14(6), 563.02, 564.02, 565.02(1), (4), and (5), and 565.03, F.S., be returned to the appropriate county tax collector.⁴ Thirty-eight percent of the license taxes collected within an incorporated municipality pursuant to these provisions must be returned to the appropriate municipal officer.⁵ The DBPR anticipates the bill will cause

⁴ Section 561.342(1), F.S.

⁵ Section 561.342(2), F.S.

license taxes returned to municipalities and counties to be reduced annually by up to \$90,449 and \$57,125, respectively; a total annual reduction of \$147,574.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 562.13 and 565.04 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on January 26, 2017:

The committee substitute (CS) does not repeal s. 565.04, F.S. The CS amends s. 565.04, F.S., to prohibit the Division of Alcoholic Beverages and Tobacco from issuing a license under s. 565.02(1)(a), F.S., (package stores) for any location or business located within 1,000 feet of a public or private elementary, middle school, or secondary school.

The CS permits package stores that are licensed on or before June 30, 2017, for a premises located within 1,000 feet of a school to maintain and renew the license if the place of business complies with the package store restrictions in s. 565.04, F.S. The CS removes the package store restrictions in s. 565.04, F.S., for all package stores that are located more than 1,000 feet of a school.

- B. **Amendments:**

None.



156064

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/27/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete line 44

and insert:

Section 2. Subsection (1) of section 565.04, Florida Statutes, is amended to read:

565.04 Package store restrictions.—

(1) (a) Vendors licensed under s. 565.02(1) (a) which are located within 1,000 feet of a school or which are considered a neighborhood market may ~~shall~~ not in said place of business



156064

11 sell, offer, or expose for sale any merchandise other than such
12 beverages, and such places of business shall be devoted
13 exclusively to such sales; provided, however, that such vendors
14 shall be permitted to sell bitters, grenadine, nonalcoholic
15 mixer-type beverages (not to include fruit juices produced
16 outside this state), fruit juices produced in this state, home
17 bar, and party supplies and equipment (including but not limited
18 to glassware and party-type foods), miniatures of no alcoholic
19 content, and tobacco products. Such places of business shall
20 have no openings permitting direct access to any other building
21 or room, except to a private office or storage room of the place
22 of business from which patrons are excluded.

23 (b) As used in this subsection, the term "neighborhood
24 market" means a grocery store that is part of a chain of grocery
25 stores with sizes varying from 28,000 to 66,000 square feet,
26 with an average size of 42,000 square feet, which are used to
27 fill the gap between supercenters, in filling areas where
28 another supermarket chain had closed all stores due to
29 competition. Such markets offer a variety of products including
30 full lines of groceries, pharmaceuticals, health and beauty
31 aids, photo developing services, and a limited selection of
32 general merchandise.

33
34 ===== T I T L E A M E N D M E N T =====

35 And the title is amended as follows:

36 Delete lines 11 - 12

37 and insert:

38 amending s. 565.04, F.S.; limiting the package store
39 restrictions to vendors located within a certain



40
41

distance of a school or vendors that are considered
neighborhood markets; providing an effective date.



600198

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/27/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

1 **Senate Substitute for Amendment (156064) (with title**
2 **amendment)**

3
4 Delete line 44
5 and insert:

6 Section 2. Subsection (1) of section 565.04, Florida
7 Statutes, is amended to read:

8 565.04 Package store restrictions.—

9 (1)(a) The division shall not issue a license under s.
10 565.02(1)(a) for any location or business located within 1,000



600198

11 feet of a public or private elementary school, middle school, or
12 secondary school.

13 (b) Notwithstanding paragraph (a), vendors ~~Vendors~~ licensed
14 under s. 565.02(1)(a) on or before June 30, 2017, for a licensed
15 premises located with 1,000 feet of a public or private
16 elementary school, middle school, or secondary school may
17 maintain and renew the beverage license for that premises but
18 shall not in said place of business sell, offer, or expose for
19 sale any merchandise other than such beverages, and such places
20 of business shall be devoted exclusively to such sales;
21 provided, however, that such vendors shall be permitted to sell
22 bitters, grenadine, nonalcoholic mixer-type beverages (not to
23 include fruit juices produced outside this state), fruit juices
24 produced in this state, home bar, and party supplies and
25 equipment (including but not limited to glassware and party-type
26 foods), miniatures of no alcoholic content, and tobacco
27 products. Such places of business shall have no openings
28 permitting direct access to any other building or room, except
29 to a private office or storage room of the place of business
30 from which patrons are excluded.

31
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete lines 11 - 12

35 and insert:

36 amending s. 565.04, F.S.; limiting the package store
37 restrictions to vendors located within a certain
38 distance of a school; providing an exception for
39 current licenses with some restrictions; providing an



600198

40

effective date.



638800

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

1 **Senate Substitute for Amendment (156064) (with title**
2 **amendment)**

3
4 Delete line 44
5 and insert:

6 Section 2. Subsection (1) of section 565.04, Florida
7 Statutes, is amended to read:

8 565.04 Package store restrictions.—

9 (1)(a) The division shall not issue a license under s.
10 565.02(1)(a) for any location or business located within 1,000



638800

11 feet of a public or private elementary school, middle school, or
12 secondary school.

13 (b) Notwithstanding paragraph (a), vendors ~~Vendors~~ licensed
14 under s. 565.02(1)(a) on or before June 30, 2017, for a licensed
15 premises located within 1,000 feet of a public or private
16 elementary school, middle school, or secondary school may
17 maintain and renew the beverage license for that premises but
18 shall not in said place of business sell, offer, or expose for
19 sale any merchandise other than such beverages, and such places
20 of business shall be devoted exclusively to such sales;
21 provided, however, that such vendors shall be permitted to sell
22 bitters, grenadine, nonalcoholic mixer-type beverages (not to
23 include fruit juices produced outside this state), fruit juices
24 produced in this state, home bar, and party supplies and
25 equipment (including but not limited to glassware and party-type
26 foods), miniatures of no alcoholic content, and tobacco
27 products. Such places of business shall have no openings
28 permitting direct access to any other building or room, except
29 to a private office or storage room of the place of business
30 from which patrons are excluded.

31
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete lines 11 - 12

35 and insert:

36 amending s. 565.04, F.S.; limiting the package store
37 restrictions to vendors located within a certain
38 distance of a school; providing an exception for
39 current licenses with some restrictions; providing an



638800

40

effective date.

By Senator Flores

39-00183A-17

2017106__

1 A bill to be entitled
 2 An act relating to vendors licensed under the Beverage
 3 Law; amending s. 562.13, F.S.; revising applicability
 4 to specify circumstances under which persons under the
 5 age of 18 years who are employed in specified
 6 businesses are excluded from certain employment
 7 prohibitions; providing that failure to comply with a
 8 restriction on monthly revenue from the sale of
 9 alcoholic beverages is unlawful if a minor is employed
 10 during a month that the restriction is exceeded;
 11 repealing s. 565.04, F.S., relating to package store
 12 restrictions; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Paragraph (c) of subsection (2) of section
 17 562.13, Florida Statutes, is amended to read:

18 562.13 Employment of minors or certain other persons by
 19 certain vendors prohibited; exceptions.—

20 (2) This section shall not apply to:

21 (c) Persons under the age of 18 years who are employed in a
 22 retail drugstore ~~drugstores~~, grocery store ~~stores~~, department
 23 store ~~stores~~, florist shop ~~florists~~, specialty gift shop ~~shops~~,
 24 or automobile service station whose license fees are specified
 25 in s. 563.02(1), s. 564.02(1), or s. 565.02(1)(a), if such
 26 vendor derives 30 percent or less of its monthly gross revenue
 27 from sales of alcoholic beverages. This exception applies only
 28 if the minor employees are supervised by a person 18 years of
 29 age or older who verifies that any purchaser of alcoholic
 30 beverages is 21 years of age or older and who approves the sale
 31 of alcoholic beverages to such purchaser. Failure to comply with
 32 the restriction on monthly revenue from the sale of alcoholic

39-00183A-17

2017106__

33 beverages is unlawful if a person under the age of 18 years is
34 employed in the licensed premises during a month that the
35 restriction is exceeded ~~stations which have obtained licenses to~~
36 ~~sell beer or beer and wine, when such sales are made for~~
37 ~~consumption off the premises.~~

38

39 However, a minor to whom this subsection otherwise applies may
40 not be employed if the employment, whether as a professional
41 entertainer or otherwise, involves nudity, as defined in s.
42 847.001, on the part of the minor and such nudity is intended as
43 a form of adult entertainment.

44 Section 2. Section 565.04, Florida Statutes, is repealed.

45 Section 3. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2017
Meeting Date

SB104

Bill Number (if applicable)

Topic VENDORS LICENSED UNDER BEVERAGE LAW

Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Job Title REGIONAL DIRECTOR

Address PO Box 10577

Phone 305-608-4300

Street

TALLAHASSEE FL 32302

City

State

Zip

Email CCAMARA@RSTREET.ORG

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing R STREET INST.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/17

Meeting Date

SB 106

Bill Number (if applicable)

Topic SB 106

Amendment Barcode (if applicable)

Name JOHN STEPHENS

Job Title

Address 14550 BASILHAM

Street

Phone 904-334-7548

JACKSONVILLE FL

City

State

32258

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26

Meeting Date

106

Bill Number (if applicable)

Topic ALCOHOL RETAIL

Amendment Barcode (if applicable)

Name CHARLES BAILES

Job Title C.E.O.

Address 8989 S. ORANGE AV.

Phone 407 851 0000

Street

ORLANDO FL 32824

City

State

Zip

Email CEPB3@AAC FWS.COM

Speaking: For [] Against [X] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing ABC FINE WINE & SPIRITS

Appearing at request of Chair: Yes [] No [X]

Lobbyist registered with Legislature: Yes [] No [X]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26-17
Meeting Date

1060
Bill Number (if applicable)

Topic The Wall

Amendment Barcode (if applicable)

Name Andrew Hasek

Job Title Policy Analyst

Address 200 W. College Ave

Phone _____

Street

Tallahassee
City

FL
State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26-17

Meeting Date

106

Bill Number (if applicable)

Topic VENDORS LICENSED UNDER BEVERAGE LAW

Amendment Barcode (if applicable)

Name BILL BUNKLEY

Job Title PRESIDENT

Address PO BOX 341644

Phone 813-264-2977

Street

TAMPA

City

FL

State

33694

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA ETHICS & RELIGIOUS LIBERTY COMMISSION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01-26-17

Meeting Date

106

Bill Number (if applicable)

Topic Alcohol Retail

Amendment Barcode (if applicable)

Name Scott Dick

Job Title lobbyist

Address 210 S. Monroe Street

Phone 850 545 4524

Street

Tallahassee, FL 32309

Email Scott@skdgrp.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FA Independent Spirits Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/26/17
Meeting Date

106
Bill Number (if applicable)

Topic Liquor separate entrance

Amendment Barcode (if applicable)

Name Lindsey Napier

Job Title Director Government Relations

Address 1
Street
Lakeland FL
City State Zip

Phone 4046556423

Email lindsey.napier@publix.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Publix Super Markets

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

1-26-17

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 106

Bill Number (if applicable)

Topic SB 106

Amendment Barcode (if applicable)

Name JAY Hibbard

Job Title VP Govt Relations / DISTILLED SPIRITS COUNCIL

Address 1250 I St NW

Phone 202 628 3544

Street

Washington DC

State

Zip

Email jhibbard@discus.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Distilled Spirits Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26

Meeting Date

106

Bill Number (if applicable)

Topic BEVERAGE LAW

Amendment Barcode (if applicable)

Name JASON UNGER

Job Title

Address 301 S BRONCUGH ST

Phone 577 9090

Street

City TLH

State

Zip 32301

Zip

Email jungera@gray-robinson.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing TARGET CORPORATION

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01-26-17
Meeting Date

SB-106
Bill Number (if applicable)

Topic SB 106

Amendment Barcode (if applicable)

Name DENNIS STRANGE

Job Title Captain - Orange County Sheriff's Office

Address 2500 West Colonial Dr

Phone 321-236-0064

Orlando FL 32804
City State Zip

Email dennis.strange@ocfl.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Orange County Sheriff Jerry L. Jennings

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26-17
Meeting Date

106
Bill Number (if applicable)

Topic VENDORS LICENSED UNDER THE BEVERAGE LAW

Amendment Barcode (if applicable)

Name RICHARD TURNER

Job Title GEN COUNSEL : V.P. GOVERNMENTAL RELATIONS

Address 230 S. ADAMS ST
Street

Phone 850.224.2250

TALLAHASSEE FL 32301
City State Zip

Email rturner@fla.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA RESTAURANT & LODGING ASSOC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2017

Meeting Date

106

Bill Number (if applicable)

Topic Alcohol Separation

Amendment Barcode (if applicable)

Name Monesia Brown

Job Title Dir of Pub Aff. Walmart

Address

Phone

Street

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

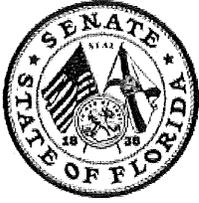
Representing Walmart Stores Inc

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: December 20, 2016

I respectfully request that **Senate Bill #106**, relating to Vendors Licensed Under the Beverage Law, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 39

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 114

INTRODUCER: Senator Brandes

SUBJECT: Cosmetic Product Registration

DATE: January 26, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>AGG</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 114 removes product registration filing requirements by cosmetic manufacturers for cosmetic products. The Department of Business and Professional Regulation (DBPR), Division of Drugs, Devices, and Cosmetics (division), regulates cosmetics that are manufactured and repackaged by licensed cosmetic manufacturers in Florida. Each product produced or repackaged in Florida is required to be registered with the division every two years.

The bill removes the authority of the DBPR to issue a “certificate of free sale” certifying that a cosmetic is registered with the DBPR and may be legally sold in Florida.¹

For Fiscal Year 2017-2018, the DBPR estimates the bill will have a negative fiscal impact of \$307,509 on the Professional Regulation Trust Fund within the DBPR, and a \$24,601 reduction in the service charge paid to the General Revenue Fund.

The bill contains an appropriation of \$222,564 in recurring funds from the General Revenue Fund for Fiscal Year 2017-2018 for implementation of the bill.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

State and Federal Regulation

Section 499.003(12), F.S., defines “cosmetic” as an article other than soap, which is either:

¹ See s. 499.003(6), F.S.

- Intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering appearance; or
- Intended for use as a component of the article.

The regulation of cosmetics is addressed in ch. 499, F.S., which regulates drugs, devices, and cosmetics by the DBPR.² The Florida Drug and Cosmetic Act (the act),³ is intended to safeguard public health and promote public welfare by protecting against injuries and merchandising deceit involving drugs, devices, and cosmetics or the use of such products. Currently, cosmetics manufactured outside of Florida are not required to be registered with the division.

Administration of the act must conform to the Federal Food, Drug, and Cosmetic Act (the federal act)⁴ and the applicable portions of the Federal Trade Commission Act⁵ which prohibit the false advertising of drugs, devices, and cosmetics. According to a national trade association,⁶ personal care products valued at \$113 billion were distributed in the United States in 2013, through wholesale trade, retail trade, and personal care services,⁷ with nearly 130,000 industry-related jobs located in Florida (both salaried and self-employed, including part-time).⁸

The act authorizes the division to issue permits to Florida cosmetic manufacturers and register cosmetic products manufactured or repackaged in Florida. Cosmetic manufacturers physically located in Florida must obtain a cosmetic manufacturer permit through the division. The term “manufacture” in this context means the preparation, deriving, compounding, propagation, processing, producing, or fabrication of any cosmetic.⁹ Cosmetic manufacturers also repackage products by changing the container, wrapper, or label of a product, which may include altering the quantity of a product into different containers. A person that only labels or changes the label of a cosmetic, but does not open the container sealed by the manufacturer of the product, is exempt from obtaining a permit.¹⁰

Florida law requires any person who manufactures, packages, repackages, labels, or relabels a cosmetic in Florida to register “each separate and distinct” cosmetic every two years.¹¹ New

² The Drug, Device, and Cosmetic program was transferred to the Department of Business and Professional Regulation from the Department of Health effective November 1, 2012. See ch. 2012-184, Law of Fla., s. 122, at <http://laws.flrules.org/2012/184> (last visited Jan. 21, 2017) and ch. 2012-143, Laws of Fla. s. 3, at <http://laws.flrules.org/2012/143> (last visited Jan. 21, 2017).

³ See ss. 499.001-499.081, F.S.

⁴ Section 499.003(20), F.S., defines the federal act referencing 21 U.S.C. ss. 301 *et seq.* and 52 Stat. 1040 *et seq.*

⁵ See 15 U.S.C. §§ 41-58, as amended.

⁶ The Personal Care Products Council is a national trade association representing the global cosmetic and personal care products industry, with more than 600 member companies that manufacture, distribute, and supply personal care products marketed in the United States. See <http://www.personalcarecouncil.org/> (last visited January 21, 2017).

⁷ See *Economic and Social Contributions of the US Personal Care Products Industry, 2013* (last visited January 21, 2017) at page 6.

⁸ *Id.* at pages B-11 and B-12.

⁹ Florida Department of Business and Professional Regulation, *Cosmetic Manufacturer*, accessible at <http://www.myfloridalicense.com/dbpr/ddc/CosmeticManufacturer.html> (last viewed Jan. 21, 2017).

¹⁰ Section 499.01(2)(o), F.S.

¹¹ See s. 499.015, F.S., and Application for Product Registration - Cosmetics (Main & Identical), Form No.: DBPR-DDC-228 at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05666> (last visited Jan. 21, 2017).

cosmetic products must be registered prior to sale.¹² The biennial registration fee is \$30 for each cosmetic product and \$15 for each identical product.¹³

Neither a formula marketed under differing brand names, sizes, quantities, or distributions, nor the adding of color, flavor, or scents to a formula, are considered to create a separate and distinct product for registration purposes. The different variations must be listed, however, pursuant to the division's administrative rules.¹⁴ The process for identical products requires submission of an application and a \$15 biennial renewal fee.¹⁵ For renewal of a product registration, an applicant must submit product labels, an Application for Product Registration Renewal, and the required fee.¹⁶

Because registration is a prerequisite to sales of a cosmetic, Florida's registration system is a pre-market reporting system that is handled by the division.¹⁷ This is in contrast with the system of the United States Food and Drug Administration (FDA), which is a post-market reporting system for use by manufacturers, packers, and distributors of cosmetic products that are in commercial distribution in the United States.¹⁸

Under the FDA's system, any representation in labeling or advertising that creates an impression of official approval because of registration or possession of a registration number is considered misleading. Misleading labeling makes a cosmetic misbranded, and marketing a misbranded cosmetic violates federal law.¹⁹ Enforcement of the federal act is initiated by a complaint by a consumer, which may be accomplished by mail, fax, through their health provider, pharmacist, or via an online report.²⁰ The division, in a "Helpful Links and Resources" section on its website,²¹ provides a link to the FDA website.

Certificates of Free Sale

The DBPR issues certificates of free sale (COFS)²² for a fee of \$25 to certify that a cosmetic that is registered with the DBPR may be legally sold in Florida. A COFS is required by many foreign countries before a product may be sent into the country. A COFS need not be obtained from the

¹² See Rule 61N-1.016(2), F.A.C. for requirements imposed upon applicants.

¹³ See Rule 61N-1.018(3)(f) and (g), F.A.C.

¹⁴ See Rule 61N-1.016(1)(b), F.A.C.

¹⁵ Rule 61N-1.016(2), F.A.C.

¹⁶ See Rule 61N-1.016(3), F.A.C., and Form DBPR-DDC-235, at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05666> (last visited Jan. 21, 2017).

¹⁷ See <http://www.myfloridalicense.com/dbpr/ddc/index.html> (last visited Jan. 21, 2017).

¹⁸ See the FDA's description of its Voluntary Cosmetics Registration Program and its benefits at <http://www.fda.gov/Cosmetics/RegistrationProgram/default.htm> (last visited Jan. 21, 2017). The program does not apply to cosmetic products for professional use only, such as products used in beauty salons, spas, or skin care clinics, or to products that are not for sale, such as hotel samples, free gifts, or cosmetic products made at home and given to family and friends.

¹⁹ *Id.*

²⁰ See <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm354560.htm> (last visited Jan. 21, 2017).

²¹ See http://www.myfloridalicense.com/dbpr/ddc/ddc_helpful_links.html (last visited Jan. 21, 2017).

²² Section 499.041(7), F.S., uses the term "free-sale certificate," and imposes a fee of \$25, with \$2 for each copy obtained at the same time that the certificate is issued. See Rules 61N-1.017 and 61N-1.018(3)(g), F.A.C.

DBPR, but may be obtained from the FDA,²³ and other organizations, such as Enterprise Florida.²⁴

III. Effect of Proposed Changes:

The requirement that Florida cosmetic manufacturers register cosmetic products with the division is eliminated. In addition, the bill makes conforming changes by eliminating registration and renewal requirements for cosmetic products, including the requirements to submit applications, product labels, and fees to the division. Florida cosmetic manufacturers' products will be treated in a similar manner to those cosmetic products manufactured outside of Florida that are distributed and sold in the state.²⁵

The bill also removes the authorization to the DBPR to issue a "certificate of free sale" certifying that a cosmetic is registered with the DBPR and may be legally sold in Florida.²⁶

The bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

SB 114 removes fees for cosmetic product registrations and renewals, as well as fees for the issuance of certificates of free sale for cosmetic products.

²³ See http://www.fda.gov/Cosmetics/InternationalActivities/Exporters/ucm129593.htm#Are_there_other (last visited Jan. 21, 2017).

²⁴ According to the FDA, some foreign governments accept certificates issued by a state or local health department, board of trade, or trade association. Due to limited resources, the FDA recommends that firms pursue such alternative sources for export certificates whenever possible, provided they are acceptable to the country requiring a certificate. See http://www.fda.gov/Cosmetics/InternationalActivities/Exporters/ucm129593.htm#Are_there_other (last visited Jan. 21, 2017). These online sites offer certificates of free sale services: <http://icmad.org/programs/certificates-of-free-sale> (last visited Jan. 21, 2017), <http://www.personalcarecouncil.org/member-industry-resources/certificates-free-sale> (last visited Jan. 21, 2017), and <http://www.enterpriseflorida.com/wp-content/uploads/certificate-of-free-sale-request-form.pdf> (last visited Jan. 21, 2017).

²⁵ See *2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation)* for SB 114, dated January 11, 2017 and revised January 20, 2017 (on file with Senate Committee on Regulated Industries) at page 2.

²⁶ See s. 499.003(6), F.S.

B. Private Sector Impact:

The bill has a positive fiscal impact for cosmetic manufacturers due to the elimination of the fees associated with product registration and renewal. The elimination of premarket registration requirements in Florida may require manufacturers, who have relied upon issuance by the DBPR for certificates of free sale, to obtain that service from third parties.

C. Government Sector Impact:

For Fiscal Year 2017-2018, the DBPR estimates that the bill will have a negative fiscal impact of \$307,509 on the Professional Regulation Trust Fund within DBPR, and a \$24,601 reduction in the service charge paid to the General Revenue Fund.²⁷

The DBPR estimates that the bill will reduce the annual revenue to the Drugs, Devices, and Cosmetics account within the Professional Regulation Trust Fund by \$307,509²⁸ in Fiscal Year 2017-2018, \$388,451 in Fiscal Year 2018-2019, and \$494,248 in Fiscal Year 2019-2020. The DBPR anticipates the deficit in the Drugs, Devices, and Cosmetics account within the Professional Regulation Trust Fund will continue.

The bill contains an appropriation of \$222,564 in recurring funds from the General Revenue Fund for Fiscal Year 2017-2018 for implementation of the bill. The appropriation from the Professional Regulation Trust Fund is reduced by the same amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 499.015, 499.003, 499.041, and 499.051.

²⁷ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 114, dated January 11, 2017 and revised January 20, 2017 (on file with Senate Committee on Regulated Industries) at page 3.

²⁸ The total amount of estimated cosmetic products revenue to DBPR in Fiscal Year 2017-2018 of \$307,509 is the sum of: \$74,010 (new main product registrations), \$27,150 (new identical product registrations), \$164,280 (main product registration renewals), \$39,900 (identical product registration renewal), and \$2,169, (fees for issuance of certificates of free sale (COFS)). See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 114, dated January 11, 2017 and revised January 20, 2017 (on file with Senate Committee on Regulated Industries) at page 5.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Brandes

24-00152-17

2017114__

1 A bill to be entitled
 2 An act relating to cosmetic product registration;
 3 amending s. 499.015, F.S.; deleting the requirement
 4 that a person who manufactures, packages, repackages,
 5 labels, or relabels a cosmetic in this state register
 6 such cosmetic biennially with the Department of
 7 Business and Professional Regulation; amending ss.
 8 499.003, 499.041, and 499.051, F.S.; conforming
 9 provisions to changes made by the act; providing an
 10 appropriation; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 499.015, Florida Statutes, is amended to
 15 read:

16 499.015 Registration of drugs and, ~~devices, and cosmetics~~;
 17 issuance of certificates of free sale.-

18 (1) (a) Except for those persons exempted from the
 19 definition of manufacturer in s. 499.003, any person who
 20 manufactures, packages, repackages, labels, or relabels a drug
 21 or, ~~device, or cosmetic~~ in this state must register such drug
 22 or, ~~device, or cosmetic~~ biennially with the department; pay a
 23 fee in accordance with the fee schedule provided by s. 499.041;
 24 and comply with this section. The registrant must list each
 25 separate and distinct drug or, ~~device, or cosmetic~~ at the time
 26 of registration.

27 (b) The department may not register any product that does
 28 not comply with the Federal Food, Drug, and Cosmetic Act, as
 29 amended, or Title 21 C.F.R. Registration of a product by the
 30 department does not mean that the product does in fact comply
 31 with all provisions of the Federal Food, Drug, and Cosmetic Act,
 32 as amended.

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33 (2) The department may require the submission of a catalog
34 and specimens of labels at the time of application for
35 registration of drugs or devices, ~~and cosmetics~~ packaged and
36 prepared in compliance with the federal act, which submission
37 constitutes a satisfactory compliance for registration of the
38 products. With respect to all other drugs and devices, ~~and~~
39 ~~cosmetics~~, the department may require the submission of a
40 catalog and specimens of labels at the time of application for
41 registration, but the registration will not become effective
42 until the department has examined and approved the label of the
43 drug or device, ~~or cosmetic product~~. This approval or denial
44 must include written notification to the manufacturer.

45 (3) Except for those persons exempted from the definition
46 of manufacturer in s. 499.003, a person may not sell any product
47 that he or she has failed to register in conformity with this
48 section. Such failure to register subjects such drug or device,
49 ~~or cosmetic product~~ to seizure and condemnation as provided in
50 s. 499.062, and subjects such person to the penalties and
51 remedies provided in this part.

52 (4) Unless a registration is renewed, it expires 2 years
53 after the last day of the month in which it was issued. Any
54 product registration issued or renewed on or after July 1, 2016,
55 shall expire on the same date as the manufacturer or repackager
56 permit of the person seeking to register the product. If the
57 first product registration issued to a person on or after July
58 1, 2016, expires less than 366 days after issuance, the fee for
59 product registration shall be \$15. If the first product
60 registration issued to a person on or after July 1, 2016,
61 expires more than 365 days after issuance, the fee for product

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62 registration shall be \$30. The department may issue a stop-sale
63 notice or order against a person that is subject to the
64 requirements of this section and that fails to comply with this
65 section within 31 days after the date the registration expires.
66 The notice or order shall prohibit such person from selling or
67 causing to be sold any drugs or devices, ~~or cosmetics~~ covered
68 by this part until he or she complies with the requirements of
69 this section.

70 (5) A product regulated under this section which is not
71 included in the biennial registration may not be sold until it
72 is registered and complies with this section.

73 (6) The department may issue a certificate of free sale for
74 any product that is required to be registered under this part.

75 (7) A product registration is valid only for the company
76 named on the registration and located at the address on the
77 registration. A person whose product is registered by the
78 department under this section must notify the department before
79 any change in the name or address of the establishment to which
80 the product is registered. If a person whose product is
81 registered ceases conducting business, the person must notify
82 the department before closing the business.

83 (8) Notwithstanding any requirements set forth in this
84 part, a manufacturer of medical devices that is registered with
85 the federal Food and Drug Administration is exempt from this
86 section and s. 499.041(6) if:

87 (a) The manufacturer's medical devices are approved for
88 marketing by, or listed with the federal Food and Drug
89 Administration in accordance with federal law for commercial
90 distribution; or

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91 (b) The manufacturer subcontracts with a manufacturer of
92 medical devices to manufacture components of such devices.

93 (9) However, the manufacturer must submit evidence of such
94 registration, listing, or approval with its initial application
95 for a permit to do business in this state, as required in s.
96 499.01, and any changes to such information previously submitted
97 at the time of renewal of the permit. Evidence of approval,
98 listing, and registration by the federal Food and Drug
99 Administration must include:

100 (a) For Class II devices, a copy of the premarket
101 notification letter (510K);

102 (b) For Class III devices, a federal Food and Drug
103 Administration premarket approval number;

104 (c) For a manufacturer who subcontracts with a manufacturer
105 of medical devices to manufacture components of such devices, a
106 federal Food and Drug Administration registration number; or

107 (d) For a manufacturer of medical devices whose devices are
108 exempt from premarket approval by the federal Food and Drug
109 Administration, a federal Food and Drug Administration
110 registration number.

111 Section 2. Subsection (6) of section 499.003, Florida
112 Statutes, is amended to read:

113 499.003 Definitions of terms used in this part.—As used in
114 this part, the term:

115 (6) "Certificate of free sale" means a document prepared by
116 the department which certifies a drug or, ~~device, or cosmetic,~~
117 that is registered with the department, as one that can be
118 legally sold in the state.

119 Section 3. Subsection (6) of section 499.041, Florida

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2017114__

120 Statutes, is amended to read:

121 499.041 Schedule of fees for drug, device, and cosmetic
122 applications and permits, product registrations, and free-sale
123 certificates.—

124 (6) A person that is required to register drugs or
125 ~~devices, or cosmetic products~~ under s. 499.015 shall pay an
126 annual product registration fee of not less than \$5 or more than
127 \$15 for each separate and distinct product in package form. The
128 registration fee is in addition to the fee charged for a free-
129 sale certificate.

130 Section 4. Subsection (2) of section 499.051, Florida
131 Statutes, is amended to read:

132 499.051 Inspections and investigations.—

133 (2) In addition to the authority set forth in subsection
134 (1), the department and any duly designated officer or employee
135 of the department may enter and inspect any other establishment
136 for the purpose of determining compliance with this chapter and
137 rules adopted under this chapter regarding any drug, device, or
138 cosmetic ~~product~~.

139 Section 5. For the 2017-2018 fiscal year, the sum of
140 \$222,564 in recurring funds is appropriated from the General
141 Revenue Fund to the Division of Drugs, Devices, and Cosmetics in
142 the Department of Business and Professional Regulation for the
143 purpose of implementing this act, and the appropriation from the
144 Professional Regulation Trust Fund to the division shall be
145 reduced by \$222,564.

146 Section 6. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/17

SB 114

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name John Ray

Job Title _____

Address 310 W. College Ave, Suite 212

Phone 850.445.5044

Street

Tallahassee

FL

32301

Email jray@johnrayconsulting.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Seychelles Organics, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Committee
on Regulated Industries

Subject: Committee Agenda Request

Date: January 13th, 2016

I respectfully request that **Senate Bill #114**, relating to **Cosmetic Product Registration**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Regulated Industries, *Vice Chair*
Appropriations Subcommittee on the Environment
and Natural Resources
Health Policy
Transportation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
14th District

January 20, 2017

The Honorable Travis Hutson
Regulated Industries Committee, Chair
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: Request for Excusal from Committee Meeting

Dear Chairman Hutson:

Please excuse me from the Regulated Industries Committee on January 26, 2017 at 10:00 a.m. as I will not be able to attend due to illness.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy L. Hukill".

Dorothy L. Hukill
State Senator, District 14

cc: Ross McSwain, Staff Director of the Regulated Industries Committee
Lynn Koon, Committee Administrative Assistant of the Regulated Industries Committee

REPLY TO:

□ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: KN 412
Caption: Senate Regulated Industries

Case No.:
Judge:

Type:

Started: 1/26/2017 10:00:42 AM

Ends: 1/26/2017 11:53:29 AM Length: 01:52:48

10:00:40 AM Call to order
10:01:13 AM Roll call
10:01:33 AM Quroum present
10:01:41 AM Senator Hukill is excused
10:01:54 AM Chair Hutson: Take up Tab 2 --Vendors Licenses SB 106
10:02:17 AM Senator Flores is recognized to explain the bill
10:03:53 AM Late filed amendment 156064 by Gibson
10:04:50 AM Chair turns the chair over to Senator Benaquisto
10:05:01 AM Senator Hutson takes up Substitute amendment 600198
10:05:34 AM Senator Stube for a question
10:05:54 AM Senator Hutson for a response
10:06:26 AM Debate on the amendment?
10:06:31 AM Senator Gibson for debate
10:07:10 AM Senator Stube in debate
10:07:38 AM Senator Hutson to close
10:08:26 AM Substitute Amendment is adopted
10:08:37 AM Back on the bill as amended
10:08:44 AM Move to public testimony
10:08:50 AM Christian Camera waives in support
10:08:59 AM John Stephens is recognized
10:11:11 AM Charles Bailes ABC Fine Wine and Spirits
10:17:35 AM Questions?
10:17:40 AM Chair Hutson for a question
10:19:06 AM Mr. Bailes for a response
10:20:30 AM Chair Hutson for a series of questions
10:22:42 AM Senator Stube for a question
10:24:30 AM Mr. Biles for a response
10:24:45 AM Follow up question by Senator Stube
10:25:29 AM Mr. Biles for a response
10:25:59 AM Senator Steube for follow up
10:28:01 AM Next Andrew Hosek waives in support
10:28:13 AM Bill Bunkley President FL Ethics Commission
10:33:21 AM Chair Hutson for a question
10:34:18 AM Senator Gibson for a question
10:35:20 AM Mr. Bunkley for a response
10:35:44 AM Senator Gibson for a follow up
10:36:48 AM Senator Steube for a question
10:37:10 AM Mr. Bunkley for a response
10:37:26 AM Follow up
10:38:18 AM Scott Dick, FL Independent Spirits Association
10:45:01 AM Chair Hutson for question of Scott Dick
10:45:29 AM Scott Dick comments
10:45:43 AM Scott Dick for a response
10:46:06 AM Further question by Chair Hutson
10:47:13 AM Senator Steube for a question
10:48:37 AM Senator Steube for a series of questions
10:51:41 AM Lindsey Napia, Publix waives in opposition
10:51:55 AM Jay Hibbard, Distilled Spirits Council, waives in support
10:52:02 AM Jason Unger, Target is recognized
10:54:39 AM Chair Hutson for a question
10:56:47 AM Dennis Strange, Orange County Sheriffs Office
10:58:39 AM Chair Hutson for a question

10:59:43 AM Chair Hutson and Dennis Strange for a series of questions and responses
11:00:30 AM Richard Turner, FL Restaurant and Lodging Assoc
11:02:54 AM Chair Hutson for a question
11:03:04 AM Moresia Brown, Walmart Stores is recognized
11:04:55 AM In debate
11:05:01 AM Senator Young in debate
11:06:54 AM Senator Steube in debate
11:10:07 AM Senator Benaquisto in debate
11:10:31 AM Senator Gibson in debate
11:15:10 AM Senator Thurston in debate
11:16:03 AM Senator Braynon in debate
11:16:37 AM Senator Hutson in debate
11:18:05 AM Senator Flores closes on her bill
11:25:51 AM Call roll on SB 106
11:26:04 AM Bill is reported favorably
11:26:29 AM Recording Paused
11:29:22 AM Recording Resumed
11:29:39 AM Tab 3 - Senator Brandes SB 114
11:30:40 AM Explanation of the bill
11:31:25 AM Questions?
11:31:30 AM John Ray for Seychelles Organics waives in support
11:31:42 AM Waive close
11:31:48 AM Roll call on SB 114
11:32:18 AM Bill is reported favorably
11:32:29 AM Take up SB 100 by Senator Steube
11:32:38 AM Explanation of the bill
11:32:42 AM Senator Young for a series of questions
11:33:08 AM Senator Steube for a series of responses
11:40:01 AM Senator Gibson for a question
11:40:37 AM Senator Steube for a series of responses to Senator Gibson
11:43:07 AM Senator Brandes for series of questions
11:43:53 AM Senator Gibson for further questions
11:45:03 AM Bob OMalley, CSX for testimony
11:46:53 AM Senator Hutson for a series of questions
11:47:07 AM Mr. O'Malley for responses
11:47:21 AM Senator Steube for a question
11:48:24 AM Senator Gibson for questions
11:49:54 AM Senator Young for a question
11:50:30 AM Senator Hutson for a question
11:51:51 AM Senator Perry for a question
11:52:48 AM Chair Hutson for comments
11:53:10 AM Show the bill TP'd
11:53:15 AM Senator Braynon moves we adjourn